

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:17-CR-00046-FL-2

United States of America,

v.

Tara F. Simmons,

Defendant.

Order

David W. Venable, appointed counsel for Defendant Tara F. Simmons, asks the court to allow him to withdraw as counsel for Simmons and to appoint new counsel to represent her.¹ Venable claims that Simmons has recently expressed a lack of confidence in his ability to represent her. During a hearing on the motion, Simmons expressed concerns over Venable's lack of trial experience in federal drug cases, as well as concerns about differences over investigative issues and the overall strategy for handling her case. Upon hearing these concerns, the court allowed Simmons and Venable time to meet privately to see if they could work out their differences. At the end of their meeting, both attorney and client advised the court that they could not resolve their disagreements.

When “a ‘breakdown’ of attorney-client communication [is] so great that the principal purpose of the appointment—the mounting of an adequate defense incident to a fair trial—has been frustrated . . . the initial appointment has ceased to constitute Sixth Amendment assistance of counsel,” and the court must appoint new counsel. *United States v. Smith*, 640 F.3d 580, 588 (4th Cir. 2011). After hearing from Simmons and Venable the court finds that there has been such a breakdown of attorney-client communication that it is appropriate to grant the motion.

¹ The Government does not object to the motion.

The court thus grants the motion to withdraw and relieves Venable from the responsibility of representing Simmons. The court orders the Federal Public Defender to appoint new counsel for Simmons. The newly appointed counsel must contact the undersigned's case manager as soon as practicable, but, in any case, no later than 7 days after appointment to arrange a status conference to discuss Simmons's pending motions.

Dated: November 1, 2018



Robert T. Numbers, II
United States Magistrate Judge